

REMARKS

Claims 1, 3-17, and 19 are pending in the present Application. Claims 6 and 15 has been canceled, Claims 1, 7, 11, 13 and 14 have been amended, Claim 20 has been added, leaving Claims 1, 3-5, 7-14, 16-17, 19, and 20 for consideration upon entry of the present amendment.

Claims 1, 11, 13 and 14 have been amended to more particularly point out the embodiment claimed. Support for the amendments to claims 1, 11, 13 and 14 can at least be found in Claims 6 and 7 as originally filed as well as in Paragraph [0043] as originally filed. Claim 7 has been amended to depend from independent claim 1. Claim 11 has been amended for consistency with Claim 1.

Claims 1 and 14 have been amended to more particularly point out the embodiment claimed. In particular, Claims 1 and 14 have been amended to recite "wherein the adhesion promoter or combination of adhesion promoters is present in an amount of 0.5 to ~~2.5~~ to 1.5 weight percent, based on the total weight of the thermoplastic composition." Support for this amendment can be found at least at Tables 2-3, and throughout the specification. Table 2 provides steam jet adhesion results at 0, 0.5, 1.0, 1.2 and 1.5 weight percent (wt %) of adhesion promoter. In particular, Table 2 provides three examples having 1.5 weight percent (wt %) of adhesion promoter (Examples 2, 5 and 7); one example having 0.5 weight percent (wt %) of adhesion promoter (Example 3); one example having 1.0 weight percent (wt %) of adhesion promoter (Example 6); and one example having 1.2 weight percent (wt %) of adhesion promoter (Example 4). As demonstrated by these Examples, compositions having 0.5 to 1.5 wt% adhesion promoter demonstrate excellent paint adhesion, as compared to compositions having 0 wt% adhesion promoter (Example 1). Table 3 provides Peel Strength (N) results at 1, 1.0, and 3 wt % of adhesion promoter. Table 3 provides several examples (Examples 9-11) having 1 wt% adhesion promoter demonstrate improved paint adhesion for articles molded from the thermoplastic compositions having 0 wt% adhesion promoter (Example 8). Examples 9-11 also demonstrate that compositions containing 1 wt% adhesion promoter have almost 4 times the peel strength of the of the compositions containing 3 wt% adhesion promoter (Examples 12-14). As noted by the Examiner, with respect to changing numerical range limitations:

the analysis must take into account which ranges one skilled in the art would consider inherently supported by the discussion in the original disclosure. In the decision in *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976), the ranges

described in the original specification included a range of "25%- 60%" and specific examples of "36%" and "50%." A corresponding new claim limitation to "at least 35%" did not meet the description requirement because the phrase "at least" had no upper limit and caused the claim to read literally on embodiments outside the "25% to 60%" range, however a limitation to "between 35% and 60%" did meet the description requirement.

(MPEP § 2163.05 (III)) As discussed above, the data in Tables 2 and 3 shows that compositions having 0.5 to 1.5 wt% adhesion promoter demonstrate excellent paint adhesion and is superior to compositions having 0 wt % or 3 wt % adhesion promoter. Thus, considering the results provided in Tables 2 and 3, Applicants believe that the present limitation is adequately supported by the specification. Therefore, Applicants believe that one skilled in the art would consider the claimed range of adhesion promoter to be supported by the discussion in the original disclosure.

Further, in the Advisory Action, the Examiner stated "[w]hile there is support for 1.5 weight percent of Primacor 5990I in Example 7 (Table) on 88 of the specification, there is no support for the amount of 1.5 weight percent for all adhesion promoters." (Advisory Action dated 7/2/2001, page 2) Applicants respectfully disagree. In particular, Applicants note Example 2 and 5 provide compositions comprising a blend of adhesion promoters in an amount of 1.5 wt % (Example 2: 0.5 wt % ECN + 1.0 wt % PBT ionomer; Example 5, 0.5 wt % ECN + 1.0 wt % Primacor), while Example 7 provides a composition comprising a single adhesion promoter in an amount of 1.5 wt % (1.5 wt % Primacor). Therefore, Applicants believe that the present application provides supports for the present limitation.

No new matter has been introduced by these amendments or new claims. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1, 3-4, 6-8, 11-16, and 19 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over United States Patent No. 5,112,907 to Nishio, et al. (Nishio) in view of United States Patent No. 5,843,340 to Silvi, et al. (Silvi). Applicants respectfully traverse this rejection.

Independent claims 1 and 14 are directed toward "a thermoplastic composition comprising an electrically conductive filler, an impact modifier, ...wherein the adhesion

promoter or combination of adhesion promoters is present in an amount of 0.5 to 1.5 weight percent.” The claimed adhesion promoter having a range of 0.5 to 1.5 is not obvious because of the unexpected results shown in Tables 2 and 3.

Applicants wish to draw the Examiner’s attention to the Examples 2-7 in Table 2 and 9-14 of Table 3. It is speculated that there are competing effects in the composition with regard to the presence of the adhesion promoter with the amount of adhesion promoter determining the predominating effect. Abridged Table 2 shown below provides steam jet adhesion results at 0, 0.5, 1.0 and 1.5 weight percent of adhesion promoter. The data shows that compositions having 1.5 wt% adhesion promoter and 1.0 wt% adhesion promoter both demonstrate excellent paint adhesion. With respect to the peel test data of Table 2, it is expected that compositions having 1.5 wt% adhesion promoter would have similar paint adhesion as compositions having 1.0 wt% adhesion promoter. Table 3 provides several examples 9-11 having 1 wt% adhesion promoter and shows that these compositions have almost 4 times the peel strength of the of the examples containing 3 wt% adhesion promoter.

Table 2

Composition	1 *	2	3	4	5	6	7
Failed Squares in steam jet	13	5	5	4	2	2	0
Total adhesion Promoter	0	1.5	0.5	1.21	1.5	1.0	1.5

*** Comparative example**

It was completely unexpected that compositions having less adhesion promoter would have significantly more paint adhesion than compositions having more adhesion promoter as shown in Table 3. There was no way to anticipate or predict that the use of the adhesion promoter in an amount in excess of 1.5 wt% would result in a composition having poorer paint adhesion than a composition completely lacking an adhesion promoter. Even where a *prima facie* case of obviousness exists, obviousness may be rebutted by a showing of “unexpected results”, i.e., comparative test data showing that the claimed invention possesses unexpectedly improved properties, or properties that the prior art does not have. *In re Dillon*, 919 F.2d 688,

692-93, 16 U.S.P.Q.2d 1897, 1901 (Fed. Cir. 1990). The results must be of both statistical and practical significance. *Ex parte C*, 27 U.S.P.Q.2d 1492, 1497 (Bd. Pat. App. & Int. 1993). The Applicants disclose in Table 2 and 3 evidence of criticality directed toward the unexpected results received when 0.5 to 1.5% of an adhesion promoter are used with the polymer of independent claims 1 and 14. Presently claims 1, 3-4, 6-8, 11-16, and 19 are allowable over Nishio in view of Silvi. Reconsideration and withdrawal of this rejection are respectfully requested.

Independent claim 13 has been amended to include "an impact modifier selected from the group consisting of polystyrene-polybutadiene, polystyrene-polyisoprene, poly(alpha-methylstyrene)-polybutadiene, polystyrene-polybutadiene-polystyrene, polystyrene-polyisoprene-polystyrene, polystyrene-poly(ethylene-butylene)-polystyrene triblock copolymer, polystyrene-poly(ethylene-propylene) diblock copolymer, poly(alpha-methylstyrene)-polybutadiene-poly(alpha-methylstyrene) and combinations of two or more of the foregoing impact modifiers." The Examiner recognizes copolymer (C) of Nishio to be the impact modifier. Nishio discloses an impact modifier of "*the copolymer (C) of ethylene-alpha-olefin copolymer rubber, alkenyl aromatic compound and unsaturated carboxylic acid or its anhydride is a copolymer rubber obtained by allowing an ethylene-alpha-olefin copolymer rubber to react with an alkenyl aromatic compound and an unsaturated carboxylic acid or its anhydride in an organic solvent at 60-150°C in the presence of a radical polymerization initiator and in the substantial absence of oxygen.*" The impact modifier of Nishio is distinctly different from the block copolymer impact modifier of Claims 13 and 20. Furthermore, Nishio teaches away from using the Applicant's impact modifier because of the importance of the disclosed copolymer (C) to the invention; (col. 4, lines 27-30) "*compatibilization is insufficient and improvement of impact strength is poor, without unsaturated carboxylic acid or its anhydride.*" Nishio cannot be combined with Silvi to produce the claimed invention because Nishio is shown to teach away from the substitution of its current impact modifier with the impact modifier of Silvi.

Claims 5, 9, 10, and 17 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over United States Patent No. 5,112,907 to Nishio, et al, (Nishio) in view of United States Patent No. 5,843,340 to Silvi, et al. (Silvi) and further in view of United States Patent No. 6,353,050 to Bastiaens, et al. (Bastiaens). Applicants respectfully traverse this rejection.

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(GP2-0315)

Nishio and Silvi cannot be combined to provide the basis for a prima facie case of obviousness as described above. Similarly, Bastiaens cannot be combined with Nishio to provide the instantly claimed impact modifier. Reconsideration and withdrawal of this rejection are respectfully requested.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the objection(s) and rejection(s) and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 50-1131.

Respectfully submitted,

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